March 29, 1992

Mark H. Cohen, Esq.
Senior Assistant Attorney General
Department of Law
132 State Judicial Building
Atlanta, Georgia 30334

Dear Mr. Cohen:

This refers to Act No. 672 of the 1992 Regular Session, which provides for the 1992 redistricting of House districts, and Act No. 673 of the 1992 Regular Session, which provides for the 1992 redistricting of Senate districts, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submissions were received on March 25, 1992.

With regard to Act No. 673 which provides for the Senate redistricting, the Attorney General does not interpose any objection to the specified changes. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

With regard to Act No. 672 which provides for the House redistricting, we still have a concern in one area of the state. It appears that the state continues to elevate incumbency concerns above minority voting rights in the Muscogee-Chattahoochee Counties area. As you know, the original objection suggested that three viable black districts could be drawn in this area and that the state rejected such an approach without any legitimate reason for doing so.

In the instant submission, the state continues to pack the existing black majority districts at the expense of the third district and exacerbates this problem by inexplicably drawing a "duckhead-shaped" boundary configuration north into District No. 135, in order to draw a white incumbent into District No. 133. While incumbency considerations are not per se objectionable, in this case, a significant white population was added to District No. 133 in order to include the incumbent's residence. The resulting configuration dilutes minority voting strength.
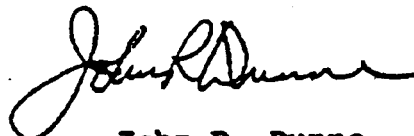
In the short time that we have had to analyze the boundary changes, this is the only area in the House plan that we find that does not satisfy Section 5. However, we reserve the right to reexamine this redistricting plan if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period with respect to any other area of the House plan.

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the state's burden has been sustained in this instance with respect to the House plan under review. Therefore, on behalf of the Attorney General, I must object to the 1992 redistricting plan for the Georgia State House to the extent that it incorporates the proposed configuration discussed above.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 1992 House redistricting plan has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1992 redistricting plan for the Georgia House continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State of Georgia plans to take concerning these matters. If you have any questions, you should call Sandra Coleman (202-307-3718), Deputy Chief of the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division