

DJ 166-012-3
V8679

JUN 4 1975

Honorable A. F. Sumner
Attorney General
State of Mississippi
Department of Justice
Jackson, Mississippi 39205

Dear Mr. Attorney General:

This is in reply to your letter of April 16, 1975, with which you submitted Senate Bill No. 2218 of the 1975 Regular Session of the Mississippi Legislature to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on April 18, 1975.

With regard to the provisions which require independent candidates to qualify at the same time as political party candidates, we have carefully considered the history of independent candidacies in Mississippi, including candidate qualifications during the 1971 elections, as well as information contained in our files regarding our May 21, 1969, objection to a similar provision submitted as an amendment to Section 3260, and information and comments from interested parties. Based on our evaluation of this information we cannot conclude, as we must under Section 5 of the Voting Rights Act, that the change in the qualifying time for independent candidates contained in Senate Bill No. 2218 will not have a racially discriminatory effect.

While our analysis of the circumstances involved persuades me that this result is required with regard to the general effect of this provision, I find that conclusion particularly appropriate when the timing of the change is considered. This provision would require that independent candidates, most of whom in recent Mississippi history have been black and who previously had until September of an election year to qualify, must qualify by the same date as candidates for party primaries. However, the bill was not enacted until April 8, 1975, less than two months before the pertinent qualifying deadline (June 6, 1975). The inordinate burden thus placed on potential independent candidates in terms of the resulting confusion, uncertainty and the limited period for obtaining the necessary petition signatures to qualify for the 1975 elections makes it even more difficult for us to conclude that the change will not have the proscribed effect insofar as the 1975 elections are concerned.

In view of these considerations, therefore, I must on behalf of the Attorney General, interpose an objection to the change in qualifying time for independent candidates contained in Senate Bill No. 2218. Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that these provisions neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that Court, the legal effect of the objection by the Attorney General is to render unenforceable the provisions of Senate Bill No. 2218 regarding the time for qualification by independent candidates.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division