

JAN 24 1977

Mr. John W. Dulaney, Jr.
Attorney for the Board of
Education of Tunica County
P. O. Box 188
Tunica, Mississippi 38676

Dear Mr. Dulaney:

This is in response to your letter of November 22, 1976, in which you submitted the change in 1966 from the election method to the appointment method for Superintendent of Education (pursuant to Section 6271-08, Mississippi Code) in Tunica County, Mississippi. Your submission was received on November 24, 1976.

We have considered carefully the information furnished in your letter as well as information and comments provided by other interested parties. Our analysis reveals that the change from the elective to appointive method of selecting the Superintendent of Education in Tunica County was adopted at a time when blacks had just begun to regain the franchise in Mississippi and when a number of similar and related changes in voting procedure in Mississippi subsequently were found to have been discriminatory toward black voters. Thus, on May 21, 1969, the Attorney General objected to a 1966 change in Mississippi law (also Section 6271-08 of the Mississippi Code) which required certain counties to change from election to appointment of their superintendents of education; finding that the change had the purpose and had had the effect of denying

and abridging the right to vote on account of race or color. For like reasons the Attorney General objected at the same time to Section 2870 of the Mississippi Code, 1966 legislation providing for the at-large election of members of county boards of supervisors. Similar changes to require or allow at-large election of county school board members made in 1966 and subsequently have been objected to for similar reasons (see copy of December 1, 1975, letter to Mississippi Attorney General A. F. Summer, attached).

Our analysis further reveals that blacks recently have begun to realize some degree of their potential in the political process in Tunica County, having won their first seat on the school board in November 1976 and the circuit clerk position in November 1975. In this connection, the black community, which apparently now has a majority of the registered voters in Tunica County, has voiced strong opposition to the change from election to appointment of the Superintendent.

Under these circumstances, we are unable to conclude, as we must under the Voting Rights Act, that this change did not have the purpose and has not had the effect of denying or abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General I must interpose an objection to the implementation of the appointive method of selecting the Tunica County Superintendent of Education.

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 for

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a declaratory judgment that the change does not have the purpose or effect of denying or abridging the right to vote on account of race or color. However, unless and until such a judgment is obtained, the change is legally unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division