

AUG 12 1974

Mr. Oliver W. Brantley
County Attorney
Post Office Box 334
Troy, Alabama 36081

Dear Mr. Brantley:

This is in reference to your submission pursuant to Section 5 of the Voting Rights Act of 1965 of Act No. 156 of 1969 which provides that candidates for the Court of County Commissioners in Pike County be elected in an at-large election system. Your submission was completed on June 11, 1974.

We have considered the submitted plan along with Census Bureau data and information and comments from interested parties. Our analysis reveals that even though blacks constitute over 34% of the population (1970 Census) in Pike County no black has ever been elected to the Court of County Commissioners in modern times. We further note the existence of the majority vote requirement in primary elections, that commissioners are elected on a staggered basis and Act No. 156 requires a candidate to reside in and seek election from one of the four commissioner districts.

Recent court decisions suggest that if an at-large voting system is employed under circumstances such as those existing in Pike County, the utilization of residency and majority vote requirements in conjunction with members being elected on a staggered basis would operate to minimize or dilute the voting strength of the minority and, thus, have an invidious discriminatory effect. See White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971); Zimmer v. McKeithen,

425 F. 2d 1297 (5th Cir. 1973); Beer v. United States, Civ. No. 1495-73 (D.D.C. March 14, 1974).

In view of these court decisions and on the basis of all the available facts and circumstances, the Attorney General is unable to conclude, as he must under the Voting Rights Act, that Act No. 156 will not have a discriminatory racial effect on voting rights. Therefore, while not objecting to at-large elections, on behalf of the Attorney General, I must interpose an objection to the implementation of the change insofar as it requires residency in particular districts, a majority vote, and staggered terms.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this plan neither has 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 residency requirement plan.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division