

APR 10 1975

Mr. Frank B. Parsons
City Attorney
City of Fairfield
Post Office Drawer 437
Fairfield, Alabama 35064

Dear Mr. Parsons:

This is in reference to the six annexations which were submitted to the Attorney General by the City of Fairfield pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on February 13, 1975.

The Attorney General does not interpose an objection to five annexations, i.e., those accomplished pursuant to Ordinance Numbers 460 (1965), 461 (1965), 484 (1966), 512 (1969) and 514 (1969). 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 such provisions.

We have given careful consideration to the annexation accomplished pursuant to Ordinance Number 563 (1973) and the supporting information obtained from the city and other interested parties. On the basis of our analysis we have concluded that the City of Fairfield has failed to satisfy its burden of proving that the subject annexation does not have the effect of abridging the right to vote on account of race or color.

Our analysis took into consideration a number of factors which can be summarized as follows: The City of

Fairfield presently elects 12 councilmen on an at-large, majority vote basis with numbered post and residency requirements. The annexed area in question contains an apartment complex of 230 units, the great majority of which are or are likely to be inhabited by white persons. Based upon 1970 census data, the subject annexation decreased the total black population of the city from approximately 48% to 46%. The issue is whether this reduction has a discriminatory effect on voting within the meaning of the Voting Rights Act of 1965. Where, as here, voter registration is fairly evenly divided between the races, there is a pattern of racial bloc voting and the election statistics for the most recent municipal elections in 1972 demonstrate relatively narrow margins of victory by white over black candidates, the addition of a few hundred white voters can have a significant diluting impact on black voting strength. In view of such circumstances, I am unable to find, as I must under Section 5, that the change in question does not have a racially discriminatory effect and therefore I must, on behalf of the Attorney General, interpose an objection to its implementation.

We are aware of the order by United States District Court Judge Sam C. Pointer to reapportion the city into single-member districts. Nevett v. Sides, C.A. No. 73-529 (N.D. Ala.). A reapportionment plan of this nature which satisfies the requirements of the Fourteenth and Fifteenth Amendments would effectively eliminate the adverse racial effect occasioned by the subject annexation under an at-large electoral system. For that reason, the Attorney General will consider the withdrawal of his objection once a constitutionally satisfactory reapportionment plan has been approved by the federal court.

I wish to stress that this ruling relates only to the voting changes occasioned by the annexation. The

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objection to the implementation of the annexation does not affect the validity of the annexation itself.

Of course, as provided by Section 5, you have an alternative of instituting an action in the United States District Court for the District of Columbia for a declaratory judgment that the changes do not have the purpose or will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division