FEB 20 1976

Mr. William T. Stephens
Assistant Attorney General
State of Alabama
Montgomery, Alabama 36104

Dear Mr. Stephens:

This is in reply to your submission of the Judicial Article Implementation Act (Act No. 1205, S.400) of the 1975 session of the Alabama legislature, to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on December 22, 1975.

We have considered the submitted changes and supporting materials as well as information and comments received from other interested parties. On the basis of our review and analysis, the Attorney General does not interpose any objection to the changes involved except Sections 4-113(b)(5) and 4-131(b). 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 changes.

With respect to the change contained in Section 4-113(b)(5), Bibb and Hale Counties would be consolidated for the purpose of electing one district court judge. The result of such a consolidation would produce an electorate which would be approximately 49% black and therefore

dilute the voting strength of blacks in Hale County, which according to the 1970 Census, is 66.4% black (Bibb County is 27.9% black). Furthermore, the proposed combination of these counties into one district does not appear to be warranted by any compelling state interest, inasmuch as both of these two counties is larger than Bullock, Crenshaw, Greene, Henry and Lowndes Counties, each of which has a district court and Hale County is larger than four other counties, Cherokee, Conecuh, Lamar and Perry, each of which also has a district court. Thus, we cannot conclude that this change will not have the effect of denying or abridging the right to vote on account of race or color. Accordingly, I must interpose an objection to the implementation of the change provided for by Section 4-113(b)(5) of the Judicial Implementation Act. Of course as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this provision neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race. However, until and unless such a judgment is obtained, the provision objected to is unenforceable.

With respect to Section 4-131(b) which provides for the abolition of the position of county solicitor, the Department has determined that the data sent to the Attorney General are insufficient to properly enable this Department to fulfill its responsibilities under Section 5. Accordingly, would you please assist us by providing the following information:

1. The names of those counties which have elected county solicitors.

2. The number of district attorneys and assistant district attorneys, by race.

3. The number of assistant district attorneys appointed, by race, since January 1, 1970, and by whom each was appointed.

4. The names of counties, if any, which have black district attorneys or assistant district attorneys.

5. The qualifications and criteria for appointment as a district attorney.

As you know, the Attorney General has a 60-day period to consider submissions pursuant to Section 5. This period will begin to run upon receipt of the additional information necessary to evaluate Section 4-131(b) of the Judicial Implementation Act.

If you have any questions, please do not hesitate to call James M. Fallon (202--739-3872), the attorney to whom this matter is assigned. When forwarding additional information relating to the above request, please refer to file number X1121.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

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