

March 1976

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Mr. John W. Johnson, Jr.
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Dear Mr. Johnson:

This is in response to your letter of December 18, 1975, in which you completed the submission to the Attorney General of Act No. 475 (H. 304) of the 1973 regular session of the Alabama Legislature pursuant to Section 5 of the Voting Rights Act of 1965. Your letter and the attached materials were received on January 8, 1976.

The Attorney General does not interpose any objection to the reapportionment of Chambers County nor to the creation of a fifth commissioner's district.

However, after carefully considering the proposed change, the supporting material and information obtained from interested citizens, we are unable to conclude, as we must under the Voting Rights Act, that the at-large feature of the method of nominating and electing commissioners will not have the effect of denying or abridging the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to this aspect of the plan.

Prior to the change, it is our understanding that pursuant to Act No. 271 (H. 1049) of the 1915 session of the legislature, Local Laws of Alabama, 1915, p. 133, county commissioners were nominated by means of a primary held on a district basis, but elected at-large. It is our further understanding that nomination in the primary is tantamount to election but that under the change in Act No. 475 nomination by the district primary is eliminated and all elections will be at-large.

Under the circumstances involved, we conclude that the deletion of district contests in the primary is dilutive of minority voting strength. We reach this conclusion because ~~that~~ two of the proposed districts, namely, Districts 1 and 2, constitute or approximate black majorities, and thus not allowing these districts to select candidates for the county commission but having all candidates selected at-large, reduces the minority voting strength in these districts from 57% in District 1 and 49% in District 2 to 34%, which is the county-wide percentage of blacks according to the 1970 census. We are constrained by judicial precedent to conclude that such a dilution violates the voting rights of minorities in Chambers County, Graves v. Barnes, 343 F. Supp. 704 (W.D. Tex., 1972), aff'd. sub. nom. White v. Register, 412 U.S. 755

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 the at-large nomination provision of Act No. 475 neither has the effect nor the purpose of denying or abridging the right to vote on account of race. However, until and unless such a judgment is obtained, the at-large provision of Act No. 475 remains unenforceable.

Finally, in reviewing this submission, we note that the 1971 regular session of the Alabama legislature passed Act No. 2001 (H. 2308), Acts 1971, p. 3241. While a copy of this statute was attached to your letter of December 18, 1975, our records do not reflect that this change has been submitted to the United States District Court for the District of Columbia for judicial review or to the Attorney General for administrative review as required by Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973. Inasmuch as Act No. 2001 provides for the same changes as Act No. 475, the objection noted above also applies to Act No. 2001.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division