D.J. 166-012-3
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MAR 10 1976

Mr. John W. Johnson, Jr.
Johnson and Avery
Attorneys at Law
P. O. Drawer 409
Lanett, Alabama 36863

Dear Mr. Johnson:

This is in response to your letters of December 31, 1975 and January 16, 1976, in which you submitted to the Attorney General Acts Nos. 118, 414 and 843 of the 1975 Regular Session of the Alabama Legislature pursuant to Section 5 of the Voting Rights Act of 1965. Your letters and the attached materials were received on January 17, 1976.

We have considered carefully the submitted changes and supporting materials as well as Census data and 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 Act No. 118, which provides for a reidentification of voters in Beat 7 of Chambers County, and Act No. 414, which provides for the appointment of clerks in the probate office of Chambers County to assist the board of registrars by taking applications for voter registration. 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 the submitted changes.

We are not able to reach a like conclusion with respect to Act No. 843. That legislation creates two districts from which members of the County Board of Education are to be elected. District 1 is to have three members resident therein and District 2 is to have two resident members, all to be elected at-large from the county, with the use of numbered posts, a majority vote requirement, and staggered terms. It is our understanding that the former (pre-1975) method of electing school board members consisted of four single-member districts and one at-large seat, with staggered terms. It is our further understanding that as a result of population growth in the southeastern corner of the county, known as "the valley," these former districts were malapportioned.

According to the 1970 Census, Chambers County is approximately 34.8% black. However, the area which constitutes District 2 in the submitted plan is approximately 54% black, while District 1 (Beats 7 and 13) is approximately 25% black. Thus, to require candidates to run at-large county-wide decreases, from a 54% majority in proposed District 2 to a 34.8% minority in the county, the potential of blacks to elect a candidate of their choice. In our view such minimization is dilutive of black voting strength. The numbered posts, staggered terms, and majority vote requirement tend further to highlight the dilutive effect of the at-large proposal. In a county such as Chambers, which we understand has a history of racial discrimination and a pattern of racial bloc voting, such a dilution denies blacks a realistic opportunity to participate in the political process. White v. Regester, 412 U.S. 755 (1973). Accordingly, we cannot conclude, as we must under the Voting Rights Act, that the at-large, numbered post, majority vote and staggered terms requirements will not have the effect of denying or abriding the right to vote on account of race or color.

For the foregoing reasons, therefore, I must on behalf of the Attorney General, interpose an objection to the at-large, numbered posts, majority vote, and staggered term features of Act No. 843 of 1975. The Attorney General, however, does not interpose any objection to the reapportionment (two districts) or residency requirement features of this submission. 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 these provisions neither have 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 provisions objected to are unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division