

DEC 29 1976

DJ 166-012-3  
V7804; X8956-58

Mr. W. McLean Pitts  
Pitts, Pitts & Thompson  
Attorneys at Law  
P. O. Drawer 537  
Selma, Alabama 36701

Dear Mr. Pitts:

This is in reference to Act 320 (1965), Act 2022 (1971), and Act 620 (1973) which provide for the method of electing the governing body of Hale County, Alabama. These acts were submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on November 4, 1976.

In making a determination under the Voting Rights Act, we apply the legal principles developed by the courts in the same or analogous situations. We are aware that 66% of the population in Hale County is black and that the black population therefore constitutes a numerical majority. As the court stated in Graves v. Barnes, 343 F. Supp. 704, 730 (1972):

In the context of the Constitution's guarantee of equal protection "minority" does not have a merely numerical denotation; rather it refers to an identifiable and specially disadvantaged group.

In affirming the District Court's decision the Supreme Court stated in White v. Regester, 412 U.S. 755 (1973) that the test to be applied was whether such a minority had been excluded from effective participation

in political life. The Court held that such a finding was sufficient to sustain the District Court's decision that single-member districts were required.

Each of the submitted Acts provides for the governing body to be elected on an at-large basis as opposed to the previous method of electing by single-member districts. Our investigation has resulted in the conclusion that the black population of Hale County has been prevented from entering the political process in a reliable and meaningful manner. This is evidenced by the fact that in Hale County no black has ever been elected to county-wide office.

Under these circumstances, I am unable to conclude, as I must under the Voting Rights Act, that the use of an at-large election system in Hale County will not have the effect of discriminating on account of race. I must, therefore, on behalf of the Attorney General, interpose an objection to the implementation of Act 320 (1965), Act 2022 (1971), and Act 620 (1973). Of course, as provided by Section 5, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these Acts have neither the purpose nor the effect of denying or abridging the right to vote on account of race or color.

Finally, in our April 23, 1976, letter of objection we suggested that should the county decide to use the present residency districts as single-member districts from which to elect its commissioners in the future we would evaluate them as such upon being furnished the additional information requested therein. While we note that you have responded to the request for additional information, there is no indication that the county has decided to use these districts as single-member districts. Consequently we have made no determination in that regard.

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Pursuant to the court order in United States  
v. County Commission, Hale County, Alabama, et al.  
(Civ. Action No. 76-403-P), I am sending a copy of  
this letter to that court.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division