U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 25 1981

Honorable Floyd R. Cook
Chairman, Perry County Commission
Perry County Courthouse
Marion, Alabama 36756

Dear Judge Cook:

This is in reference to Act No. 81-226, which requires a purge and reidentification of voters in Perry County, Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on July 27, 1981.

We have considered carefully the information provided by you, relevant Census data, and information and comments from other interested parties. At the outset, we note that, in our consideration of changes such as this under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that the change has neither the purpose nor the effect of discriminating on the basis of race or color. See South Carolina v. Katzenbach, 363 U.S. 301 (1966); United States v. Georgia, 411 U.S. 526 (1973); 28 C.F.R. 51.19. Also, relevant to our analysis are the history of Perry County as it pertains to racial discrimination in the voting process and the present status of black voting activity in the county.

In this context, then, we have noted the history of resistance to black voting in Perry County and the resulting litigation in the 1960's, as well as the continuing racial polarization of voting patterns that seem to exist. Our analysis shows that the likely effect of this reidentification and purge will be to effectively dilute the voting strength of the black electorate in Perry County. Because of the continuing effects of the

past resistance to black voting participation, the lower economic status of the black population, the limited hours and locations at which reidentification can be accomplished, and the generally restrictive manner in which one would have to go about perfecting his or her reidentification, our analysis shows that the burden cast by this process upon blacks would be much greater than on whites and would make it much more difficult for blacks to preserve their voting status. This would appear to be so even though our analysis also shows that the county was not limited in the procedures it could have adopted to accomplish a legitimate reidentification nor has it been demonstrated why current state law providing for the purging of registered voter lists is not adequate for the maintenance of accurate registered voter rolls.

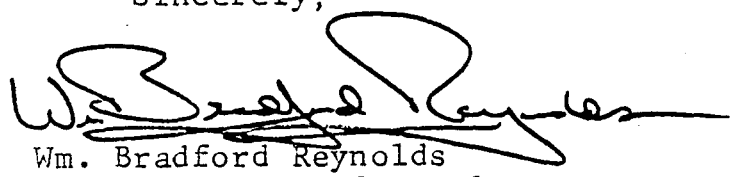
Finally, I note that the county may not be intending to comply with the provisions of 42 C.F.R. Part 801, Subpart D, which describes the method for removing the names of persons whose names are contained on the registration lists of Perry County as a result of their having been listed as voters by federal examiners, under the provisions set forth in 45 C.F.R. Part 801, Subpart C. There were a total of 2,790 black and 87 white persons listed by the examiners; thus, failure to comply with the provisions of Subpart D of 45 C.F.R. Part 801, in addition to being a violation of the Regulations, would have a disparate impact on black voters.

Under these circumstances, therefore, I am unable to conclude, as I must under the Voting Rights Act, that the conduct of this purge and reidentification as presently authorized does not have the purpose or effect of denying or abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General, I must interpose an objection to the implementation of the purge and reidentification of voters set forth in State Act No. 81-226.

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 change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (Section 51.44, 46 Fed. Reg. 878) permit you to request the Attorney General to reconsider the objection. In this regard, should the county take steps to extend the reidentification period until the end of 1982 and allow reidentification at the polls for the primary and general elections in 1982; use additional days and hours for reidentification including additional time to reidentify in the beats; use deputy registrars to assist in the reidentification at times and places convenient to the voters; and provide effective notice to the persons whose names are removed for failure to reidentify, we will reconsider our objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make Act No. 81-226 legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action Perry County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division