Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

2 OCT 1981

I. Drayton Pruitt, Jr., Esquire
Pruitt and Pruitt
Post Office Drawer PP
Livingston, Alabama 35470

Dear Mr. Pruitt:

This is in reference to the submission pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, of Alabama Act No. 81-224 and to the reidentification of registered voters that Sumter County, Alabama intends to conduct.

Based on your letters of July 24 and 28, 1981, which we received on August 3, 1981, your representations to Voting Section Attorney David H. Hunter in Livingston, Alabama on September 23 and 24, 1981, and your representations to Mr. Hunter by telephone on September 29, 1981, it is our understanding that the reidentification of registered voters of Sumter County will include the following features, in addition to those required by Act No. 81-224:

1. Under §§2 and 6 of Act No. 81-224 as presently drafted the board of registrars is to meet beginning on January 4, 1982 to purge from the list of registered voters the names of those persons who have not reidentified by January 1, 1982. It is now the intention of the county that the board will meet beginning on May 3, 1982 to purge the names of those voters who have not reidentified by May 2, 1982. This change in procedure will require an amendment of Act No. 81-224, and it is the expectation of Sumter County that such an amendment will be enacted by the Alabama legislature during its current special session or as soon thereafter as possible.

2. Under Act No. 81-224 a voter whose name is purged from the registration list for failure to reidentify by the specified date may nevertheless, pursuant to §7, vote in any subsequent election if he reidentifies at least ten days prior to that election. It is now the intention of the county to permit a voter who has not previously reidentified to vote in the primary election to be held on Tuesday, September 7, 1982, if he reidentifies on or before that date. This change in procedure will require an amendment to Act No. 81-244, and it is the expectation of Sumter County that such an amendment will be enacted by the Alabama legislature during its current special session or as soon thereafter as possible.

3. Under §3 of Act No. 81-224 the board is required to visit each beat in the county once between the hours of 9 a.m. and 5 p.m. to enable registered voters of that beat to reidentify themselves. The board now plans to visit each of the county's eighteen beats three times between July 1, 1981 and December 31, 1981. During the first and third visits the board will be present between the hours of 9 a.m. and 5 p.m.; during the second the board will be present between the hours of 1 p.m. and 7 p.m. The board now plans further to visit each beat on two consecutive days during the period between January 1, 1982 and May 2, 1982; during these visits the board will be present between the hours of noon and 6 p.m.

4. Registered voters will also be able to reidentify at the county courthouse according to the following schedule:

a. On any day Monday through Friday (excepting holidays) between the hours of 9 a.m. and 5 p.m. At any time that the office of the board is closed voters will be able to reidentify at the office of the probate judge.

b. From October 1981 through April 1982 on Thursdays between the hours of 5 p.m. and 7 p.m.

c. From October 1981 through May 1982 on one Saturday each month, including Saturday, May 1, between the hours of 9 a.m. and 1 p.m.

d. From May 1982 through August 1982 on Tuesdays between 5 p.m. and 7 p.m.

e. On Friday, September 3 and Saturday, September 4, 1982, between the hours of 8 a.m. and midnight.

f. On Tuesday, September 7, 1982, between the hours of 8 a.m. and 6 p.m.

5. To assist in the reidentification of voters on September 3, 4 and 7, 1982, the board will appoint such deputy registrars as are needed to enable all voters who apply to be processed without delay. Such deputy registrars will be appointed without regard to race. It is anticipated that approximately twelve deputy registrars will be appointed to serve in this capacity and that approximately half of these will be blacks and approximately half will be whites.

6. Registered voters who are so disabled that they are unable to travel by automobile may write or telephone the board and request that they be reidentified at their place of residence.

7. Registered voters who do not possess a social security card, driver's license, birth certificate, or voter registration card will be reidentified if their identity and residence can be established by other means.

8. Registered voters who are residents of the county but who are temporarily out of the county will be permitted to reidentify on the same terms and according to the same procedures by which they would be permitted to register to vote pursuant to Alabama

Code §17-4-134 (1979). It is understood, however, as specified in §7 of Act No. 81-224, that it is not necessary for members of the armed forces stationed outside of Sumter County or their spouses to reidentify. (It is further understood that a primary purpose of the reidentification is to remove from the registration list of the county the names of those persons who have ceased to be residents of the county.)

9. According to the most recent report of the Office of Personnel Management, 25 residents of Sumter County are eligible to vote pursuant to Sections 6 and 7 of the Voting Rights Act of 1965. The names of these persons will not be removed from the registration list except pursuant to the procedures of Section 7(d)(2) of the Act and 45 C.F.R. Part 801.

10. The names of persons purged from the list of registered voters for failure to reidentify will be published in newspapers of general circulation published in Sumter County.

11. The county's program of reidentification will be extensively publicized in the county's newspapers and radio stations.

Based on our understanding of the program of reidentification that Sumter County intends to carry out, the information the county has provided to us, and our own research, it is our tentative conclusion that the proposed reidentification has a legitimate governmental purpose and that the proposed reidentification as modified will not deny the right to vote of any resident of the county on account of race or color. Accordingly, if the reidentification is carried out as you have represented, it is our view that a version of Act No. 81-224 amended as described above would meet the requirements of Section 5. However, it will be our duty within sixty days of the submission of the amended Act No. 81-224 to determine, based on the information available to us at that time, whether that program satisfies the standards of Section 5.

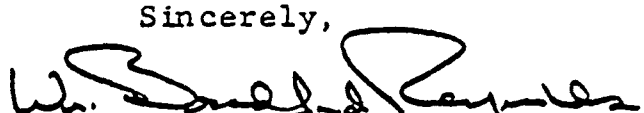
On the other hand, with respect to the submission of Act No. 81-224 in its present form, consistent with the Procedures for the Administration of Section 5 of the Voting Rights Act, 28 C.F.R. 51.8(a) and 51.35(a), 46 Fed. Reg. 870 (Jan. 5, 1981), and with United States v. Uvalde County, 455 F. Supp. 101 (W.D. Tex. 1978), affirmed, 439 U.S. 1059 (1979), the sixty-day statutory period requires us to render a decision at this time. In reaching such a decision, we are guided by relevant court decisions, which indicate that a submitted voting practice or procedure may not be precleared under Section 5 unless the Attorney General is persuaded that the practice or procedure does not have the purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group and will not have that effect. See Beer v. United States, 425 U.S. 130 (1976); State of Mississippi v. United States, 490 F. Supp. 569, 581 (D.D.C. 1979), affirmed 444 U.S. 1050 (1980); City of Port Arthur, Texas v. United States, C.A. No. 80-0648 (D.D.C. June 12, 1981) and Procedures, supra, 28 C.F.R. 51.39. Thus, even though, as suggested above, we feel that a modified procedure for reidentification would satisfy Section 5 requirements, in the present circumstances and under the controlling standard it is my duty, on behalf of the Attorney General, to interpose an objection to the voting changes occasioned by Alabama Act No. 81-224 as it presently exists.

Finally, based on the understandings and expectations explained above, we would consider it inappropriate to pursue relief further at this time in United States v. Board of Registrars of Sumter County, Alabama, C.A. No. CV81P1085W (N.D. Ala., filed July 14, 1981) seeking to enjoin the board's processing of applicants for reidentification. (You should understand, nevertheless, that private parties have standing to seek enforcement of the requirements of Section 5. See Allen v. State Board of Elections, 393 U.S. 544 (1969)). We assume, moreover, that if the contemplated amendment to Act No. 81-224 cannot be enacted by the Alabama legislature prior to the end of 1981 the county will consent to the entry of a preliminary injunction to postpone the purge pursuant to §§2 and 6 of Act No. 81-224 of the names of registered voters who have not reidentified by January 1, 1982. Because of the litigation with respect to the status of Act No. 81-224 under Section 5 I am taking the liberty of providing a copy of this letter to the court and to counsel for the prospective intervenors.

Of course under Section 5 and our Procedures, it is my duty to inform you that you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes neither have 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 or to request the Attorney General to reconsider this objection.

If you have any questions concerning this letter, please feel free to call Voting Section Attorney David H. Hunter, at 202/724-7189.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: Honorable Sam C. Pointer
United States District Judge
United States District Court
Northern District of Alabama
Western Division
1800 Fifth Avenue North
Birmingham, Alabama 35203

Lynda F. Knight, Esquire
Assistant Attorney General
State of Alabama
250 State Administrative Building
64 North Union Street
Montgomery, Alabama 36130

Edward Ashworth, Esquire
William A. Eagles, Esquire
Morgan Associates, Chartered
1899 L Street, Northwest
Washington, D. C. 20036

Abigail Turner, Esquire
Legal Services Corporation of Alabama
Post Office Box 2963
Mobile, Alabama 36601