

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 26 1981

Honorable Floyd R. Cook
Judge of Probate
Perry County Courthouse
Marion, Alabama 36756

Dear Judge Cook:

This is in reference to Alabama Act No. 81-635 (H.B. No. 1055), which provides for the use of voting machines 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. Supplemental information was received with respect to this submission on August 25, 1981.

In our letter of October 13, 1981, we informed you of our reasons for not being able to conclude at that time that the change from the use of paper ballots to the use of voting machines would not have the effect of denying the right to vote on account of race or color. We explained--

First, we have not been told how many machines the county intends to purchase or how these machines will be allocated among the county's beats and boxes. Second, we have not been advised of the kind of program the county intends to conduct to familiarize its registered voters with the use of machines. Third, we have been given no information on the procedure the county intends to follow in providing assistance at the polls to illiterate voters.

On October 16, 1981 you met with David H. Hunter, an attorney in our Voting Section, to discuss these questions. You explained, with respect to the first question, that at each of the county's polling places one voting machine would be provided for every 400 registered voters, and that two extra machines would be required. Thus 9 machines will be provided for beat 1, boxes 1-10; 2 for beat 1, boxes 11-12; 7 for beat 3; 2 for beat 7, and 1 apiece for the remaining 8 beats, for a total of 30 machines (including 2 extras). It is our view that this allocation of machines will enable Perry County voters to vote without delay on a racially neutral basis.

With respect to the second question, you agreed to place one voting machine on display at the courthouse in Marion and one voting machine on display at the city hall in Uniontown as soon as the machines are acquired, to have a machine on display for one day at each of the county's four high schools, and to make machines available for meetings of organizations and civic groups in Perry County. It is our view that this program, publicized and supplemented by local radio announcements, local newspaper announcements, and explanatory flyers and combined with instruction at the polls pursuant to §17-9-25(a) of the Alabama Code (1979), will enable Perry County to introduce the use of voting machines without denying the right to vote to any resident of Perry County on account of race or color.

With respect to the third question, you agreed that assistance at the polls to illiterate voters would be provided as specified in §17-9-25(a) of the Alabama Code (1979), under which a voter can receive assistance from two inspectors of his choice or any other person of his choice. It is our view that such provision of assistance will enable illiterate voters in Perry County to participate in the county's elections on a basis that does not deny their right to vote on account of race or color.

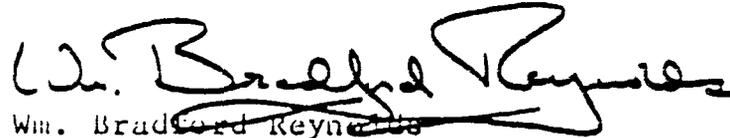
It is our view, therefore, based on the above understandings, that we will be in a position to preclear Act No. 81-635 once the County Commission has adopted appropriate resolutions incorporating these understandings. Once such resolutions are received, it will be our duty to determine, based on the information available to us at that time, whether the county's program for the introduction of the use of voting machines satisfies the standards of Section 5.

On the other hand, with respect to Act No. 81-635 as presently submitted, 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. 1039 (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, 517 F. Supp. 987 (D. D.C. 1981), and Procedures, supra, 28 C.F.R. 51.39. Thus, even though, as suggested above, we feel that the program for the introduction of voting machines that you now propose 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. 81-635 absent such supplementing resolutions.

Once resolutions embodying the program described above have been adopted by the County Commission you should feel free to submit them to us for Section 5 review and simultaneously request reconsideration, pursuant to 28 C.F.R. 51.44, of the objection to Act No. 81-635. We will give your submission and reconsideration request expedited consideration pursuant to 28 C.F.R. 51.32.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division