



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

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

19 JUL 1982

Dear Ms. Knight:

This is in reference to Acts Nos. 572 (H. 278) and 611 (H. 10) of the 1982 Regular Session of the Alabama Legislature, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submissions were received on May 21 and May 18, 1982, respectively.

We have given careful consideration to the information you have provided as well as that provided by interested parties. We note that, currently, in order for a minor party to be included on a general election ballot, the party must hold its appropriate assembly within 90 days of the first primary election date and file nomination papers for its candidates with the appropriate officials by 5:00 P.M. on the day of the first primary election. Act No. 611 (1982) changes this method so that beginning with the 1982 elections, a party that does not hold primaries, regardless of the number of votes it received at the last general election, must file its nominating papers with the appropriate officials 60 days prior to the first primary election. Section 2 of this Act further requires that these parties hold their appropriate assemblies also at least 60 days prior to the first primary election. Act No. 572 (1982) requires a party seeking inclusion on the general election ballot, whether or not it holds primaries and when it did not garner more than 20 percent of the total votes cast in the last general election in a jurisdiction, to file its nominating papers and list of the signatures of at least one percent of the qualified electors who cast ballots for the office of Governor in each such jurisd-

diction. These papers must be filed with the secretary of state or appropriate local officials at the time that parties which hold primaries must certify the names of their primary candidates, i.e., 50 days prior to the first primary.

We have been informed that Act No. 572 (1982) was publicized beginning late May and mid-June of 1982 and that little, if any, publicity was provided for Act No. 611 (1982). It is our understanding that the predominantly black National Democratic Party of Alabama is still one of the largest active minor parties in the State and that it, along with other minor parties available to minority voters, is subject to the provisions of both of the submitted Acts.

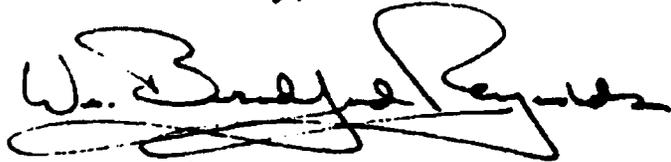
Under Section 5 of the Voting Rights Act the submitting authority has the burden of showing that a submitted change has no discriminatory purpose and effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). Our analysis indicates that the State of Alabama has not met its burden of showing that provisions of the submitted Acts will not have the effect proscribed by the Voting Rights Act. Our conclusion is based, in part, on the inadequacy and untimeliness of the publicity which has made it virtually impossible for the non-major parties, including the NDPA, to field their candidates for the 1982 elections. In light of these considerations, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted changes.

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 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. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. Such a request for reconsideration may be appropriate at a time when those affected by the Acts have been appropriately apprised of their provisions and will have an opportunity to comply with their requirements in sufficient time prior to the subsequent election. 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 the implementation of Acts No. 572 (1982) and No. 611 (1982) legally unenforceable.

- 3 -

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the State of Alabama plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

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

cc: Honorable Don Siegelman  
Secretary of State