DJ 166-012-3
A6760-6781

AUG 4 1978

Honorable David M. Proctor
Judge of Probate Court
Camden County
Woodbine, Georgia 31569

Dear Judge Proctor:

This is in reference to the polling place changes in St. Mary's (29th G.M.D.) and Kingsland (1606th G.M.D.), Camden County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Although we noted your request for expedited consideration we have been unable to respond until this time.

The Attorney General does not interpose any objection to the polling place change in St. Mary's. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this change if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day period.

The Kingsland polling place has been moved from the Kingsland City Hall to a meeting hall jointly owned by two private organizations; we note that this change was made to avoid congestion in the city hall. We understand that the voting precinct served by this polling place has a substantial number and percentage of black voters. Our research indicates, however, that the meeting hall is less conveniently located for minority residents of Kingsland than is the city hall, that neither of the joint owners—the Kingsland Woman's Club and the local

American Legion post--has any black members, that blacks do not serve neither as manager or as one of the assistant managers of the Kingsland polling place, that members of the black community believe that the use of the meeting hall as a polling place will deter black participation in elections, and that other possible sites are available.

Under Section 5 the burden is on the jurisdiction proposing a voting change to show that the new practice or procedure is not discriminatory in purpose or effect. The burden of proof is the same when a submission is made to the Attorney General as it would be in a suit for a declaratory judgment under Section 5 brought in the United States District Court for the District of Columbia. See Georgia v. United States, 411 U.S. 526 (1973). The Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.19, state:

> If the evidence as to the purpose or effect of the change is conflicting, and the Attorney General is unable to resolve the conflict within the sixty-day period, he shall, consistent with the above-mentioned burden of proof applicable in the district court, enter an objection. . . .

Under these circumstances we are unable to conclude that the county has carried its burden of proving that changing the Kingsland polling place from the city hall to the meeting hall does not have the purpose and will not have the effect of abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General, I must interpose an objection to this change.

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, 28 C.F.R. 51.31(b) and (c), 51.23, and 51.24, permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the

District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the polling place change legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division