23 JUL 1979

Mr. A. J. Welch, Jr.
41 Keys Ferry Street
Post Office Box 307
McDonough, Georgia 30253

Dear Mr. Welch:

This is in reference to the amendment to the Georgia Constitution (House Resolution No. 223-467) ratified November 8, 1966 which provides for at-large elections from residency districts and staggered terms for the Board of Education of Henry County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on May 22, 1979.

Under Section 5 Henry County has the burden of proving that the at-large electoral system was not adopted with a discriminatory purpose and that the operation of the at-large system does not have a racially discriminatory effect. See Beer v. United States, 425 U.S. 130 (1976); Wilkes County v. United States, 450 F. Supp. 1171 (D.D.C. 1978), affirmed, 47 U.S. Law Week 3391 (Dec. 4, 1978) (No. 78-70). See also 28 C.F.R. 51.19.

The Henry County Board of Education is composed of five members who are elected for four-year terms under a majority vote requirement with staggered terms. Although blacks constitute 31.9% of the population of the county (according to the 1970 Census), no black has ever been elected to the Board of Education. Prior to the adoption of the Constitutional Amendment, the Board of Education was elected from single-member districts. Our analysis indicates that a fairly-drawn single-member district system would probably contain at least one district with a population majority of blacks. Under the at-large system blacks have been unable to elect representatives of their choice, and have not been afforded effective access to the political process. Analysis of precinct returns demonstrates that voting in Henry County generally follows racial lines, at least to the extent of rendering very improbable the election of a black candidate for Board of Education.

cc: Public File

Under these circumstances I am unable to conclude, as I must under the Voting Rights Act, that the at-large method of election established by the Constitutional Amendment ratified November 8, 1966 has neither a discriminatory purpose nor a discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection pursuant to Section 5 to the submitted change in method of election.

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 the at-large election system established by the November 8, 1966 Constitutional Amendment does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.22, and 51.24) permit you to request reconsideration of this objection by the Attorney General. However, until the judgment from the District Court is obtained or the objection withdrawn, the effect of the objection by the Attorney General is to make the at-large method of electing members of the Board of Education of Henry County legally unenforceable.

To enable the 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 the Board of Education plans to take with respect to this letter. If you have any questions concerning this letter, please feel free to call John MacCoon at 202/724-7439.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division