



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 21, 1984

Terry K. Floyd, Esq.
Attorney, Glynn County
Charter Commission
P. O. Box 1713
Brunswick, Georgia 31521

Dear Mr. Floyd:

This is in reference to the 1983 amendment to Act No. 126, S.B. No. 251 (1979), which provides for a charter to consolidate the governments of Glynn County and the City of Brunswick; the method of electing the commissioners of the consolidated government; the districting plan for the commissioner districts; and the referendum by which the city and county electorate will vote on the proposed new charter for the consolidated government in Glynn County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on December 20, 1983.

We have considered carefully the information you have provided as well as that available from our files, the Bureau of the Census, and information provided by other interested parties. As background for our review, we note that on August 16, 1982, an objection was interposed to a 1979 charter proposal which, like the present one, sought to consolidate the city and county governments in Glynn County. The Attorney General objected to that proposal because it submerged the voting strength of the significant black population in Brunswick into the majority white population of Glynn County in a way which diluted the voting strength of blacks without any accommodations which would fairly recognize the black political potential as it would exist in the new entity.

An objection also was interposed to the manner in which the referendum to vote on the consolidated government's charter was to be held because, by denying the voters in the City of Brunswick a separate and distinct opportunity to vote for or against the proposition, the political voice of blacks who constituted a majority of the population in Brunswick was greatly diminished.

The 1983 amendment to Act No. 126 (1979) changes the method of electing the commissioners of the consolidated government by providing for three multimember districts, one of which is 65.9 percent black. Under the standards enunciated in City of Richmond v. United States, 422 U.S. 358, 378 (1975), this election method would appear fairly to recognize the minority voting strength as it exists in the enlarged community. Accordingly, the Attorney General will interpose no objection to the proposed new form of government nor to the districts drawn for its election. 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 changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

With regard to the procedures for holding the referendum on the proposed new charter, we cannot reach a similar conclusion. As with our 1982 objection, we continue to be concerned that voters in the City of Brunswick, which contains the large majority of blacks in the county, be allowed to decide separately whether to adopt the charter for the consolidated government. In the procedures presently under submission, however, only voters qualified to vote for the general assembly may participate in the referendum. This would exclude persons who have registered to vote in city elections but who have not also registered to vote in county elections.

Our analysis shows that there is a significant difference in the proportion that blacks constitute of persons registered to vote by the city (53% black) compared to the proportion they constitute of persons residing in the city who are registered by the county to vote in county and general assembly elections (41.9%). Thus, the requirement that only voters registered by the county will be qualified to vote in the referendum would disenfranchise that significant number of black voters who are registered in the city, but not in the county. As noted in our August 16, 1982, letter, a method of conducting the referendum by which the black community's electoral voice is not recognized on a par with that of the white community's results in a dilution of black voting strength.

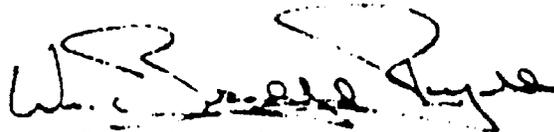
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been

sustained here insofar as the limitation on the eligibility for participation in the referendum is concerned. Accordingly, on behalf of the Attorney General, I must object to the 1983 amendment to Act No. 126, S.B. No. 251 (1979), to the extent that it precludes from participation in the referendum those voters who are registered to vote in city elections but are not registered to vote in the county.

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 change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. In this connection, combining the city and county registration lists for use both in the charter referendum and subsequent consolidated government elections might be considered as a means of removing the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the procedure legally unenforceable. 28 C.F.R. 51.9.

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

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division