

JSP:SRB:mrk
DJ 166-012-3
V9920

DEC 1 1975

Honorable A. F. Summer
Attorney General
State of Mississippi
Jackson, Mississippi 39205

Dear Mr. Attorney General:

This is in response to your letter of October 1, 1975, in which you submitted Section 37-5-13 of the Mississippi Code of 1972 to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on October 2, 1975.

Since the statute applies to 12 counties, my responses are numbered according to the subsections of the statute.

(1)(a) Jackson County

This part of the statute was passed and implemented prior to November 1, 1964, the effective date of Section 5 of the Voting Rights Act. Therefore, this subsection is not subject to review under Section 5.

(1)(b) Eolivar County

This subsection was previously submitted by the county to the Attorney General pursuant to Section 5, and by letter of April 8, 1975, the Attorney General interposed an objection to the changes made in this subsection.

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A copy of our letter of objection is attached. This change and the objection are involved in a pending lawsuit, United States v. Bolivar County, Mississippi, et al. (N.D. Miss. C.A. No. DC 75-52R). Under these circumstances I must continue the objection to this change on behalf of the Attorney General.

(1)(c) Kemper County

This change is involved in the case of United States v. Kemper County (S.D. Miss., C.A. No. 74-65C). Evidence in that case shows the existence of racial bloc voting in Kemper County. The population and voting statistics show that Beats 1 and 2 are majority black, whereas the county is majority white. This change will therefore have the effect of making it more difficult for Negro voters, if they choose to vote for a Negro candidate, to elect a candidate of their choice. In such a situation, we cannot conclude that this change will not have the racial effect which is prohibited by the Voting Rights Act of 1965. Allen v. Board of Elections, 393 U.S. 544 (1969); Stewart v. Waller (N.D. Miss., C.A. No. EC 73-42-8). Therefore, on behalf of the Attorney General, I must interpose an objection to subsection (1)(c) of the statute.

(1)(d) Neshoba County

Neshoba County officials submitted this change to the Attorney General on April 28, 1975. On June 9, 1975, we requested additional information. A copy of that letter is attached. To date the requested additional information has not been received.

(2)(a) Lincoln County

This change was submitted to the Attorney General on May 2, 1975. On June 9, 1975, we requested additional information. A copy of that letter is also attached. To date the requested additional information has not been received.

(2)(b) Lafayette County

After a preliminary review of this subsection, we have concluded that additional information will be necessary in order for us to properly evaluate the change. Accordingly, would you please send us the following information:

1) The population by race of each beat.

2) A statement as to whether any elections for the Board of Education have been held at-large since November 1, 1964. If so, please provide the names of the candidates for each Board of Education election since November 1, 1964, their race, and the result of each election contest by beat.

(2)(c) Warren County

Warren County is presently under a court order to draw an acceptable redistricting plan. (United States v. Warren County, Mississippi, S.D. Miss., C.A. No. 73W-48(N)). However, the districts as they existed in 1968 contain three majority black districts, and we believe that majority black districts would result from a fairly drawn districting plan; the county as a whole is majority white (59%). Therefore, we believe the submitted change will have the effect of diluting the black vote in these districts. On behalf of the Attorney General, I must interpose an objection to this subsection of the statute.

(2)(d) Hancock County

Additional information will be necessary in order to properly evaluate this subsection. Would you please send us the following information:

- 1) The population by race of each beat.
- 2) A statement as to whether any elections for the Board of Education have been held at-large since November 1, 1964. If so, please provide the names of the candidates for each Board of Education election since November 1, 1964, their race, and the result of each election contest by beat.

(3)(a) Marshall County

Our evaluation shows that Marshall County has four black majority beats. While Marshall County is 62.0% black, the voting age population is 55.9% black. With two exceptions, black candidates have never won county-wide office whereas black voters have been successful in electing black candidates to beat-wide offices. Also, our analysis of election results in Marshall County shows a very strong pattern of racial bloc voting in the county. Under these circumstances, the change in Marshall County to an at-large system of election of school board members *MAY* have an impermissible racial effect, and therefore I must object to this subsection of the statute.

(3)(b) Benton County

Our investigation shows that Benton County has two majority black districts, although it is a majority white county. The change will therefore have the effect

of eliminating the possibility of black voters alone electing a candidate of their choice in those two districts. Accordingly, on Behalf of the Attorney General I must interpose an objection to this subsection of the statute.

(4) Leake County

This change was the subject of a lawsuit (United States v. Leake County, Mississippi, et al., S.D. Miss., C.A. No. 4771) in which the court held the change void because it had not been submitted for federal pre-clearance under Section 5. Leake County has not attempted to administer this change since then.

One district (District 3) in Leake County has a black majority in population, voting age population, and possibly registered voters. No Negro candidate has ever been elected to county-wide office in Leake County. The effect of the change is to submerge this viable black majority into a heavily white majority constituency. Therefore, on behalf of the Attorney General, I must object to this subsection of the statute.

(5) Lowndes County

Officials of Lowndes County submitted this change to the Attorney General, and, by letter of June 23, 1975, we objected to the change. A copy of that letter is attached. I must continue the objection to this change on behalf of the Attorney General.

Where we have requested additional information, such as Neshoba, Lincoln, Lafayette and Hancock Counties, the 60-day period which the Attorney General is given in the Act for consideration of a submitted change will begin to run as soon as we receive the additional information.

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If you have any questions concerning this letter, please do not hesitate to contact Sidney R. Bixler, whose number is 202--739-2183.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division