



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 2 1991

Honorable Hainon A. Miller
Chair, Mississippi Senate
Elections Committee
P. O. Box 1018
Jackson, Mississippi 39215-1018

Dear Senator Miller:

This refers to the proposed redistricting of the Mississippi Senate and the Mississippi House of Representatives, 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 necessary to complete your submission on June 24, 1991. In accordance with your request, we have expedited our review of this submission.

We have given careful consideration to the materials you have presented, as well as to information and comments provided by other interested parties. We note at the outset that the proposed districting plans for both the House and the Senate appear to have no retrogressive effect within the meaning of Section 5. Both plans maintain or expand the number of districts in which minority voters usually will be able to elect legislators of their choice, including, for example, House District 76. However, retrogressive effect is only one aspect of our inquiry under Section 5. See Busbee v. Smith, 549 F. Supp. 494, 516 (D.D.C. 1982). As set forth in our published guidelines, we are also obligated to evaluate whether the submitting authority has carried its burden of establishing that its proposed districting plans are free of racially discriminatory purpose, or whether the plan would cause a clear violation of Section 2 of the Act. See 28 C.F.R. 51.55(b)(2).

During the deliberations leading to the adoption of the submitted plans, the Legislature established that currently black citizens do not have an equal opportunity to elect candidates of their choice to either the Mississippi House or Senate. Information provided to the Legislature in the public hearings, in its consideration of alternative districting plans, in written comments and oral presentations, and through the advice of counsel, clearly established that reasonably compact and contiguous districts could be drawn in a number of additional areas of the state in which black voters usually would be able

to elect representatives of their choice. It also became clear that in certain areas of the state, notably the Delta, the lingering effects of the state's long history of official discrimination have left a situation where black voters face unique obstacles to effective access to the franchise.

In the Delta, our review has focused on several expressed concerns about the proposed plans for both the House and Senate: (1) certain districts tend to submerge the more active black urban populations into areas where past election results show that despite apparent majorities black voters will not be likely to elect candidates of their choice (House Districts 28, 31, 34 and 56); (2) in other districts urban black concentrations are diverted away to non-Delta districts (Senate Districts 14 and 23); and, (3) districts in which white concentrations unnecessarily are included within such districts (House Districts 29, 50 and 51). We also note that the apparent black majorities in certain Delta districts (House Districts 30 and 33, Senate District 13) are inflated by predominantly black institutional populations whose participation in elections is limited, so that the resulting districts fail to provide black voters an equal opportunity to elect legislators of their choice. We have carefully evaluated the information and explanations you have provided as to these districts, but remain unpersuaded that their configuration was based on legitimate non-racial reapportionment criteria. Under these circumstances, it would appear that the proposed plan is calculated not to provide black voters in the Delta with the equal opportunity for representation required by the Voting Rights Act.

In other areas, we note the diversion in the Senate plan of rural Holmes County from its present and more logical alignment with the Delta, with a consequent dilution of minority voting strength there (Senate District 24). While the combination of Holmes with parts of urban Hinds County does create a new predominantly black Senate district, a like positive result could have been achieved by linking predominantly black areas of Hinds with similar areas of nearby Canton, which under your plan is submerged in a predominantly white district. Such a configuration would appear better to serve the Legislature's stated redistricting criteria.

Also, a number of additional black concentrations seem to be fragmented unnecessarily, with black voting strength being submerged in predominantly white districts. Such is the case in the Senate redistricting for the southwestern (districts 37 and 38) and eastern (districts 6-8, 16 and 17) portions of the state, and in east Mississippi (districts 16, 17, 21 and 22), Pike County, and Hinds County in the House plan. Alternative plans provided for effective black majority districts in these areas.

Finally, we note that the proposed plan unnecessarily reduces minority voting strength in House District 119 as well as in Senate District 28, another district which includes a large predominantly black institutional population.

Viewing the situation as a whole, then, it would appear that the Legislature avoided the creation of a significant number of compact districts in which black citizens could elect candidates of their choice. Nor can we ignore the substantial indications in the materials and information available to us that this result was recognized during deliberations and that support for the submitted plans and opposition to alternative suggestions were sometimes characterized by overt racial appeals.

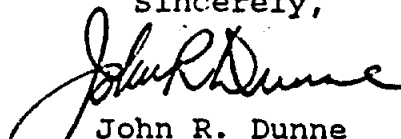
Under these circumstances, we cannot conclude, as we must under the Act, that the State has sustained its burden of showing that the proposed House and Senate redistricting plans are free of any racially discriminatory purpose. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plans for the Mississippi House of Representatives and the Mississippi Senate.

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 have 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 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the submitted changes continue to be legally unenforceable. 28 C.F.R. 51.10.

We are mindful that the regularly scheduled elections for the Mississippi House and Senate are fast approaching. We understand that for elections to go forward under a plan which satisfies both the legitimate concerns of the Mississippi Legislature and the requirements of federal law will require a concerted effort. Please be assured that this Department stands ready to cooperate in every way, including providing review under Section 5 on an exceptionally expedited basis so that the scheduled elections might be held with a legally enforceable plan under the existing schedule. In that regard, and so that we will

be able to fulfill our obligations to enforce the Voting Rights Act, please inform us promptly what steps Mississippi intends to take with regard to redistricting. If you have any questions, feel free to call Voting Section attorney John Tanner (202-307-2897), who has been assigned to handle this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division