APR 20 1972

D.J. 166-012-3

Mr. John F. Ward, Jr.
Burton, Roberts & Ward
Attorneys at Law
906 Louisiana Avenue
Baton Rouge, Louisiana 70802

Dear Mr. Ward:

This is in response to your letter dated February 22, 1972, which submitted the proposed reapportionment plan for the Ascension Parish School Board and which was received by us on February 23, 1972.

We have given careful consideration to the proposed reapportionment plan and supporting information furnished, along with information obtained from other sources. Based on our analysis and review I am unable to conclude that the proposed plan will not have the effect of discriminating against Negro voters and potential candidates on account of their race or color. For that reason I must, on behalf of the Attorney General, interpose an objection to the reapportionment plan.

Our review of the facts here reveals that three of the 10 wards in the parish are majority black. While we recognize that two of those three wards fall far short of the population necessary to claim individual representatives,

we note that all of the three, including Ward 1, which could justify a representative unto itself, have been consolidated with white-majority wards to form white-majority multi-member districts.

Although multi-member districts are not inherently discriminatory (Whitcomb v. Chavis, 402 U.S. 124 (1971)), recent federal court decisions indicate that the use of multi-member districts which have the effect of minimizing or canceling out the voting strength of racial minorities contravene constitutional protections. The discriminatory effect of such multi-member districts has been recognized by the Supreme Court and by three-judge federal courts in recent cases involving statewide reapportionment plans in Texas, Alabama, and Louisiana. See Whitcomb v. Chavis, supra; Graves v. Barnes, No. A-71-CA-142 (W.D. Texas, Jan. 1972), application for stay denied, U.S. , No. A-735 (Feb. 7, 1972) (opinion by Justice Powell); Sims, Farr and United States v. Amos, No. 1744-N (M.D. Ala., Jan. 3, 1972); Bussie v. The Governor of Louisiana, No. 71-202 (E.D. La., August 24, 1971).

We recognize the complexities of designing a reapportionment plan which satisfies the needs of the parish and its citizens and, simultaneously, complies with federal constitutional standards and laws. However, we are persuaded that the Voting Rights Act compels an objection to the proposed plan. I understand that the plan in question already has been implemented in that

elections were held in accordance with its provisions in 1970. Changes of this type are not legally enforceable until they have met the Section 5 submission requirements. Dyer v. Love, 307 F.Supp. 974 (N.D. Miss., 1969). Under those circumstances I believe that the results of the school board election in 1970 pursuant to the changes in question cannot be lawfully implemented. I further believe that the elections for school board should be reconducted without using the changes to which this objection is being interposed. This view is consistent with the decision rendered on October 29, 1971, in United States v. W. H. Cohen, et al., C.A. No. 2482 (S.D. Ga., 1971). In that case the United States District Court for the Southern District of Georgia ordered the City of Hinesville, Georgia, to rehold its municipal elections without using the changes that had been objected to by the Attorney General under Section 5.

In that connection, I note your comment in your letter dated February 22, 1972, that the proposed school board reapportionment plan was based upon the police jury's plan. From our analysis it appears that the school board plan was based upon the first police jury reapportionment proposal which was objected to by the Attorney General on July 23, 1971. However, on August 2, 1971, the police jury submitted a second plan which was reviewed by this Department and found not to be objectionable. You may wish to look at the police jury's second plan as a reference for a new plan to be used in reholding the election, should you not choose to hold them under the old ward system.

Please advise this Department within fifteen (15) days of your decision concerning the possibilities of holding a new election for all offices of the school board elected in 1970 pursuant to the above-objectionable plan. Of course, as provided by Section 5, you may seek a judgment in the District Court for the District of Columbia declaring that the voting change in question has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color.

If you have any questions concerning this matter, please do not hesitate to contact me or my staff.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division