

V8189,

APR 8 1975

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John L. Hatcher
Attorney, Board of Election
Commissioners of Bolivar County
P. O. Box 937
Cleveland, Mississippi 38732

Dear Mr. Hatcher:

This is in reference to the change in the method of electing members of the Board of Education of Bolivar County, Mississippi, from election by district to election at large, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on March 24, 1975.

We have considered the submitted plan along with Census Bureau data and information and comments from interested parties. Among other things, this information shows that in 1974 the incumbent Board of Education candidate for Beat 1 received more votes in his particular district than did his opponent, that the Beat 1 incumbent lost reelection based upon the total votes cast in the county at large, that a substantial majority of the persons living in Beat 1 are black, and that the candidacy of the Beat 1 incumbent was supported by a large segment of the black community. In other words, it appears that the black supported incumbent in Beat 1 lost reelection solely because of the change in the method of election from district to at large.

In view of these facts and on the basis of the other available facts and circumstances, the submitted change has a racially discriminatory effect. Therefore,

on behalf of the Attorney General, I must interpose an objection to the implementation of the change.

Voting changes which are not submitted under Section 5 to the Attorney General for administrative review, or to the United States District Court for the District of Columbia for judicial review, are not legally enforceable changes. United States v. Kemper County, et al., Civil Action No. 74-63(c) S.D. Miss., November 21, 1974; United States v. Leake County, et al., Civil Action No. 4711, S.D. Miss., May 3, 1971; Allan v. State Board of Elections, 393 U.S. 544 (1969). Accordingly, the at large elections held in 1972 and 1974 for members of the Bolivar County Board of Education were conducted in violation of Section 5, and we believe that continued implementation of those election results is prohibited by Section 5. In this connection, in order to achieve compliance with Federal law we believe that the positions on the Board of Education which were subject to election in 1972 and 1974 must presently be filled by the method of election extant prior to the submitted change, i.e., by vote of only the electors in the respective affected districts.

This Department's responsibility for enforcing the Voting Rights Act of 1965 includes an obligation to insure that the implementation of voting changes to which a Section 5 objection is outstanding, is not continued. Therefore, I request that you inform us, within ten days of your receipt of this letter, what steps the county intends to take with regard to the objection interposed above.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this plan

- 3 -

neither has the purpose nor has the effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that Court, the legal effect of the objection by the Attorney General is to render unenforceable the district to at large voting change.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division