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DEC 3 1976

Mr. John R. Stone
City Attorney
City of Jackson
Post Office Box 17
Jackson, Mississippi 39203

Dear Mr. Stone:

This is in reference to the annexation, with precinct lines and polling places for the annexed area, to the City of Jackson, Mississippi, submitted to the Attorney General for review under Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed by our receipt of supplemental information on October 4, 1976.

Section 5 of the Voting Rights Act requires the Attorney General to examine submitted changes that affect the voting process to determine that a change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." In making this determination on behalf of the Attorney General, we apply the legal principles developed by the courts in the same or analogous situations. The principal cases dealing with the proper approach to an evaluation of annexations under Section 5 are City of Richmond v. United States, 422 U.S. 358 (1975) and City of Petersburg v. United States, 354 F. Supp. 1021 (D.C. 1972), aff'd 410 U.S. 962 (1973). Essentially, these cases require an analysis of an annexation submission to examine the impact of the boundary expansion on minority voting rights, both statistically and in the context of the local electoral system, with due consideration to the historic patterns of minority electoral participation. See also Whitcomb v. Chavis, 403 U.S. 124 (1971); White v. Regester, 412 U.S. 755 (1973); and Blacks United for Lasting Leadership, et al. v. City of Shreveport, et al., F. Supp. (Civ. Action No. 74-272 W.D. La., decided July 16, 1976.)

The decisions cited above prescribe our approach to the review of annexations under Section 5. With respect to racial effect, the Supreme Court, in reaffirming its holding in Petersburg, supra, stated in Richmond, supra, 422 U.S. at 370:

***the annexation of an area with a white majority, combined with at-large councilmanic elections and racial voting, created or enhanced the power of the white majority to exclude Negroes totally from participation in the governing of the city through membership on the city council.

According to the information you have provided, the area annexed in 1976 is populated by 32,499 persons, of whom 23,579, or 74%, are white. The effect of including approximately three times as many whites as blacks in the annexation is that the black percentage of the city's total population dropped from 40% to 38%.

This decrease in the black percentage in Jackson could itself have a significant effect on the political strength of blacks in the city. Moreover, it continues a trend dating back at least to 1969 of the annexation of areas of primarily white population, which has the effect of counteracting the impact of an otherwise growing black population percentage.

Year	Total	White	%	Black	%
1960 (preannexation)	120,761	70,694	58.5	49,994	41.4
1960 (postannexation)	144,422	92,793	64.3	51,556	35.7
1970 (preannexation)	133,968	92,651	69.2	61,063	39.7
1971 (postannexation)	163,063	100,338	61.5	62,471	38.3
1976 (preannexation)	200,700	120,420	60	80,280	40
1976 (postannexation)	233,190	144,399	61.9	83,791	38.1

As the above chart indicates in 1960 Jackson had a population of about 120,000, of which over 41% was black. A large annexation that year, of an area containing a population that was over 90% white, reduced the black percentage to less than 36%. In the 12 years between the 1960 and 1970 censuses there were no annexations and the black proportion of the city's population grew by about four percentage points. In that period the white population was static, declining in its proportion of the whole. The 1971 annexation interrupted this trend by adding 9000 persons, of whom 84.5% were white. At this point we raised with you the problem of selective annexation and pointed out the potentially dilutive effect of the annexation. However, with the understanding that the city planned to include two specific black areas as part of then pending annexations, we did not object to that annexation under Section 5.

The annexation of the two areas did not go forward as promptly as had been projected. Instead, they were included in the large annexation of 1976, which is now under consideration. Even though the city appears to have included all eligible black areas in the current annexation, the inescapable effect of the 1976 annexation is to continue the pattern of the earlier annexations.

Taken together, the three annexations have included whites at almost a five to one ratio to blacks (53,785 to 11,481). They have more than offset the growth in the black proportion of the city's population that has been occurring. But for this series of annexations, the black population in the City of Jackson would be approaching a majority.

Annexations are reviewable under Section 5 of the Voting Rights Act because they affect the composition of the electorate. They are objectionable if they are designed to dilute the voting power of a minority or if they have that effect. Thus a city's electoral system as well as demographic statistics must be included in the Attorney General's consideration of the effect of an annexation.

Jackson has a three-member city council, with the mayor and two commissioners elected at large. A majority vote is required for nomination, and full slate voting is required. No black has ever been elected to the council, although several have been candidates. Our research indicates that elections in Jackson are characterized by racial bloc voting. Thus the dilutive effect of the annexation combined with a system of election that minimizes the opportunity for minorities to be elected and with the existence of racial bloc voting makes it impossible for the Attorney General to conclude that the 1976 annexation will not have a racially discriminatory effect.

Where there is a dilutive effect, an annexation may still be unobjectionable if, as the Supreme Court held in Petersburg, supra, 410 U.S. at 1031, the city also takes steps "to neutralize to the extent possible any adverse effect upon the political participation of black voters." The Supreme Court explained in Richmond, supra, 422 U.S. at 370, that "the consequences would be satisfactorily obviated if at large elections were replaced by a ward system of choosing councilmen." Although it is our understanding that the City of Jackson has the authority to make such a change in its electoral system, no such action has been taken.

On the question of racial purpose, our analysis has not disclosed any racially discriminatory motivation associated with this annexation.

Accordingly, I must on behalf of the Attorney General enter an objection to the implementation of the submitted annexation to the extent that it affects voting in the City of Jackson. It is our view that such an objection does not under federal law affect the legality or propriety of the annexation itself. However, until withdrawn or invalidated by court action, the objection does preclude the conduct of municipal elections in the annexed area.

Of course, as provided by Section 5, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this annexation has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color. In any event, we would be pleased to discuss with you any questions you may have in connection with this matter.

In regard to the precinct lines and polling places for the annexed area, no determination will be made at this time due to the effect of this objection on voting in the annexed area.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division