

JUL 6 1979

Honorable A. F. Sumner
Attorney General
State of Mississippi
Post Office Box 220
Jackson, Mississippi 39205

Dear Mr. Attorney General:

This is in reference to House Bill No. 854 of the Regular Session of the 1979 Mississippi Legislature, which relates to assistance in voting for blind, physically disabled, or illiterate voters, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on May 7, 1979.

By letter of June 19, 1979, we notified you that the Attorney General did not interpose an objection to the change in the State of Mississippi's system of providing assistance to voters that is contained in H.B. 854. We did, however, inform you that, as authorized by Section 5, the Attorney General reserved the right to reexamine this submission if additional information that would otherwise require an objection came to his attention during the remainder of the sixty-day period.

Since June 19, 1979, this Department has received information which has caused us to reevaluate this matter. On the basis of that further review and analysis, we can no longer conclude that the system of assistance provided by H.B. 854 does not have a racially discriminatory purpose and will not have a racially discriminatory effect.

According to the 1970 census, although blacks constitute but 31 percent of Mississippi's residents aged 25 and over, 71.1 percent of all such persons who have completed less than five years of formal education are black. Accordingly, a disproportionately large number of black as opposed to white voters must depend on assistance in order to effectively exercise their right to vote. It is our experience, based on the observation of a substantial number of elections, that in fact the vast majority of voters who request assistance because of illiteracy are black. Under existing law, prior to H.B. 854, according to O'Neal v. Simpson, 350 So.2d 998, S.Ct. of Miss. (1977), illiterate voters could receive assistance from the person of their choice, whether or not that person was a registered voter or resided in the precinct of the assisted voter, there was no limit on the number of voters that one person could assist, and no other person was permitted or required to be present when the assistance was given. Under H.B. 854 the person giving assistance must be a registered voter of the precinct of the voters receiving assistance, one person may only assist five others, and the poll manager must be present while the assistance is given.

Our research and experience indicates it is common for more than five black voters to receive assistance from the same person or for the person giving assistance not to reside in the same precinct as the voters receiving assistance and that most poll managers are white. We note in addition that the rules on assistance contained in H.B. 854 are more restrictive than those of most other comparable states and that we have received no explanation of why such restrictive rules are necessary.

Under these circumstances and as indicated above, we are unable to conclude that the proposed system of assistance 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. Therefore, on behalf of the Attorney General, I must interpose an objection to H.B. 854.

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 this change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection is to make the implementation of the system of assistance provided by H.B. 854 legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division