DJ 166-012-3

AUG 25 1972

Honorable Daniel R. McLeod
Attorney General
State of South Carolina
P. O. Box 11549
Columbia, South Carolina 29211

Dear Mr. Attorney General:

This is in reference to Act #1152 which was submitted to this Department pursuant to Section 5 of the Voting Rights Act and received on July 11, 1972. Additional information necessary to properly evaluate this statute was received on August 11, and thus commenced the 60-day time period which the Attorney General has to evaluate submissions. However, in accordance with your request, expedited consideration has been given to this submission pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. §51.32).

We have given careful consideration to the submitted change and the supporting information, as well as information received from other sources. As a result, however, we are unable to conclude, in the limited time available, that the provision for numbered seats, in Act #1152, will not have the effect of abridging the right of black citizens of Aiken County to vote on account of race or color.

It is our understanding that the Aiken County legislative delegation in developing a plan for the Board of Commissioners generally followed the school board plan which was ordered by the court in Dessauer v. England, C.A. No. 1576 (Jan. 7, 1971). Our review

of the matter indicates, however, that Act R1152 differs from the school board plan by providing that all candidates for commissioner qualify for numbered seats.

As you are aware, on June 30, 1972, we entered an objection to Act 1264, which provided for the use of numbered seats in all multi-member bodies in the State. We have previously reviewed with you the various legal precedents upon which we rely and which indicate that the use of numbered seats may impermissibly dilute the voting strength of cognizable racial minorities. See Scott v. Dunston, E.D.N.C., C.A. No. 2666 (January 10, 1972), and Graves v. Barnes, W.D. Texas, No. A-17-CA-142 (January 20, 1972). In our June 30 letter we stated that since many of the multi-member electorates in the State contain cognizable racial minorities, we were unable to conclude that the racially dilutive effect described by the courts would not be occasioned by the numbered seat requirement. In the limited time available to us, we are unable to conclude that such a racially dilutive effect would not result in Aiken County.

For the above reasons, I must, on behalf of the Attorney General, enter an objection to the implementation of the numbered seat provisions (Sections 3 and 4) of Act R1152. We do not, however, object to the other provisions of the statute. Of course, as the Voting Rights Act provides, you may seek approval of this statute in the District Court for the District of Columbia notwithstanding this objection.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

DJ 166-012-3

September 14, 1972

Honorable Daniel R. McLeod
Attorney General
State of South Carolina
P. O. Box 11549
Columbia, South Carolina 29211

Dear Mr. Attorney General:

This is in response to your request for clarification of the Attorney General's objection which was entered on August 25 to the numbered seat provisions (Sections 3 and 4) of Act R1152 which was submitted to this Department pursuant to Section 5.

It is our understanding that in order to conform to our objection, your office advised Aiken County officials of the Democratic and Republican parties that the August 29 primary could be conducted on a purely county-wide basis. We do not consider that procedure to have been inconsistent with the Attorney General's objection to the use of numbered seats. However, since our objection was interposed specifically to the numbered seat provisions, it does not address itself to, nor proscribe, the use of residency requirements of the kind, for instance, as approved by the court for the school board in Dennauer v. England, C.A. No. 1076 (January 7, 1971).

Accordingly, as long as the numbered seat requirements of Act R1152 are not implemented, the manner in which elections should be conducted under other provisions of South Carolina law is a question of state law on which we express no opinion.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division