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OCT 1 1974

Ms. Treva Ashworth
Assistant Attorney General
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Ms. Ashworth:

This is in reference to your submission of 1972 Act No. 1023 and 1974 Act Nos. 1010 and 1011, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed August 2, 1974.

It is our understanding that County Attorney D. Glenn Yarborough ruled 1974 R1011 legally unenforceable and that it was not implemented. Accordingly, no determination under Section 5 has been made.

After careful consideration of your submission, Lancaster County's recent election history and demographic characteristics and recent court decisions in voting rights cases, the Attorney General interposes no objection to the implementation of the 1972 Act No. 1023 and 1974 Act No. 1010 with the exception of the specific features enumerated below. However, we feel a responsibility to point out that the failure of the Attorney General to interpose an objection does not bar subsequent judicial action to enjoin the enforcement of these acts.

After examination of the available materials, I am unable to conclude that the county-wide election of the commissioners on a staggered basis, by majority

cc: Public File (Rm. 929)

vote, to residency or numbered posts does not adversely affect minority voting rights. Our analysis demonstrates that minority race voters have the potential to elect the candidate of their choice through the selective use of single-shot voting whereas this potential is dissipated if an otherwise at-large election to fill multiple identical offices is transformed into a number of separate election contests through the imposition of numbered and residency post requirements and the staggering of terms of office. In comparable situations, recent court decisions indicate that specified post requirements may effectively operate to dilute minority voting strength. Georgia v. United States, 411 U.S. 526 (1973); Dunston v. Scott, 336 F. Supp. 206 (E.D. N.C. 1972); Sims v. Amos, 336 F. Supp. 924 (M.D. Ala. 1972). Additionally, the majority requirement superimposed upon these elections renders the likelihood of election of a minority race preference candidate illusory. Under relevant voting rights case law, cited above, courts have concluded that a majority requirement may effectively operate as a device to dilute minority voting strength, and the same theories of dilution are applicable to the reduced opportunity to influence election results and achieve elective office which result from a decrease in the number of board members elected at large effected by the staggering of terms of commissioners. Beer v. United States, 374 F. Supp. 363 (D. D.C. 1974). Moreover, our evaluation also indicates that there is the potential for achieving a majority black single member district under an equitably drawn seven-member representation plan for Lancaster County. See Georgia v. United States, supra, and Beer v. United States, supra.

Accordingly, on behalf of the Attorney General I must interpose an objection to the aforementioned features of 1972 Act No. 1023 and 1974 Act No. 1010. The Attorney General is, however, cognizant of the legitimate governmental

interests which the change in form of government was intended to further and, in the context of modified selection process, the implementation of the change may not adversely affect minority voting rights. Accordingly, should Lancaster County adopt a system for electing the county commissioners which eliminates the dilutive effects discussed above, the Attorney General will, upon request, re-evaluate the matter.

The Voting Rights Act of 1965 prohibits the enforcement of election law changes in jurisdictions subject to Section 5's review procedures unless and until the United States District Court for the District of Columbia or the Attorney General determines that no adverse racial effect will result from their enforcement. In view of the Attorney General's objection, the results of the 1972 elections for four county commissioners and one replacement which were conducted pursuant to legally unenforceable procedures must be invalidated and new elections conducted. Hall v. Issaquena County Board of Supervisors, 453 F.2d 404 (5th Cir. 1971); United States v. Twiggs County, Georgia, C. A. No. 2825 (M.D. Ga., Jan. 7, 1974); United States v. Cohan, 358 F. Supp. 1217 (S.D. Ga. 1973); United States v. Garner, 349 F. Supp. 1054 (N.D. Ga. 1972); Dyer v. Love, 307 F. Supp. 974 (N.D. Miss. 1969). Since the Attorney General is charged under the Voting Rights Act of 1965 with the responsibility for taking necessary legal action to insure compliance with the Act, we request that you advise this Department within 30 days of the date of this letter as to the steps you intend to take with respect to the features of your submission objected to in this letter.

Of course, the Attorney General's interposed objections do not foreclose to Lancaster County the alternative under Section 5 of the Voting Rights Act of instituting an action for a declaratory judgment in

the District Court for the District of Columbia that the submitted enactments do not have the purpose or effect of denying or abridging the right to vote on account of race or color.

If you have any questions about the subject matter of this letter, please do not hesitate to contact us.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division