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Mr. Jacob Jennings
City Attorney
Town of Bishopville
Post Office Box 106
Bishopville, South Carolina 29010

Dear Mr. Jennings:

This is in reference to the implementation of South Carolina State Act 283 (Home Rule Act) for the Town of Bishopville, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was originally received on May 3, 1976. Additional information was received on July 20, 1976, and still further information, completing the submission, was received on September 27, 1976.

In the past, the six-member council of the Town of Bishopville was elected at-large, by plurality vote, to nonstaggered terms. The elections were nonpartisan. Because of the requirements of the Home Rule Act, the town has decided that in the future a majority of the votes will be required for election and that councilmanic terms will be staggered. See Sections 47-92 and 47-97 of the 1962 South Carolina Code of Laws.

The Attorney General did not object under Section 5 of the Voting Rights Act to the Home Rule Act. However, our letters of August 28, 1975 and December 19, 1975, indicated that changes adopted by individual municipalities in compliance with the Home Rule Act would be subject to the requirements of Section 5. In the case of Bishopville such changes include the use of a majority requirement in elections for municipal office and the staggering of the terms of council members.

Section 5 of the Voting Rights Act requires the Attorney General to examine a submitted change that affect the voting process to determine that it "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. Principal cases dealing with the proper approach to an evaluation of a method of election include White v. Regester, 412 U.S. 755 (1973), and Zimmer v. McKeithen, 485 F. 2d 1297 (5th Cir. 1973) (en banc), aff'd on other grounds sub nom. East Carroll Parish School Board v. Marshall, 44 U.S.L.W. 4320 (1976).

In making our determination with respect to Bishopville's implementation of the Home Rule Act we have carefully studied demographic, voter registration and councilmanic election data for the town. Our research indicates the following facts: Blacks constitute about 49% of the population of Bishopville; until May 1975, no black person had ever been elected to the Bishopville City Council, and racial bloc voting appears to exist in Bishopville.

On September 3, 1974, the Attorney General interposed an objection to a plan of staggered terms for the Bishopville Town Council. We know of no significant relevant changes that would lead us to modify our analysis of the effect of staggered terms in Bishopville. With the existence in South Carolina of the opportunity to single-shot vote, the reduction of the field of candidates that would result from the imposition of staggered terms would have the effect of limiting the potential for black voters to elect a candidate of their choice.

Where racial bloc voting exists and where blacks constitute a significant minority of the electorate, the implementation of a majority requirement within the context of at-large elections can make it difficult, if not impossible, for minority voters to elect a candidate of their choice.

Under these circumstances, the Attorney General cannot conclude, as he must under the Voting Rights Act of 1965, that the implementation of staggered terms and a majority requirement the Town of Bishopville will not have the effect of denying or abridging the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to the implementation by the Town of Bishopville of South Carolina Act 283 with respect to the adoption of the aforementioned election procedures.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor 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 effect of the objection by the Attorney General is to render the changes legally unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division