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DJ 166-012-3
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DEC 13 1976

Honorable W. C. Simpson
Mayor
Town of Calhoun Falls
Post Office Box 240
Calhoun Falls, South Carolina 29628

Dear Mayor Simpson:

This is in reference to the change to a majority vote requirement and implementation of the South Carolina Home Rule Act by the Town of Calhoun Falls, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on October 13, 1976.

We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from interested parties. Our analysis reveals that blacks constitute a substantial proportion of the population of the Town of Calhoun Falls and that under the adopted form of government all of the town's councilman will be elected at-large. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that a majority vote requirement could have the potential for abridging minority voting rights. See White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971).

A major consideration is whether voting along racial lines (racial bloc voting) exists. The information available to us in this regard has not been decisive. From data provided us, however, it does appear that the one black candidate in recent times (1975) received the large majority of his votes from the voting box where most of the black voters cast their ballots and that his totals at both boxes generally bear a positive correlation to the number of black voters at those boxes.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change in voting practice and procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19) While nothing has come to our attention suggesting a discriminatory purpose, in view of the racial implications of the 1975 election results and the teachings of the court decisions cited above we are unable to conclude that the imposition of the majority requirement, in the context of an at-large election system, will not have a racially discriminatory effect in Calhoun Falls. Accordingly, on behalf of the Attorney General I must interpose an objection to the implementation of the majority vote requirement for the election of councilmen.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Sections 51.23 to 51.25 of the Attorney General's Section 5 guidelines (28 C.F.R. 51.23-51.25) permit reconsideration of the objection should you have new information bearing on the matter. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court is obtained, the legal effect of the objection by the Attorney General is to make the change to majority vote legally unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division