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FEB 6 1978

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

Dear Ms. Ashworth:

This is in reference to Act 780 (1966) and to the adoption of the council-supervisor form of government and an at-large electoral system for Colleton County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, as amended. Information completing your submission was received on December 8, 1977.

It is our understanding that as of November 1, 1964, Colleton County had a three-member board of commissioners, and that the county was divided into two districts, with one commissioner elected from each district by the electorate of that district and one by the entire electorate of the county. Act No. 780 (1966) increased the size of the board of commissioners from three members to five, with a second member elected from each of the two districts. On this understanding, the Attorney General does not interpose any objection to Act No. 780 (1966). However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of the change.

The combined effect of Act No. R863 (1976) and the referenda held in Colleton County on November 2 and 16, 1976, was to change from election by district as described above to a council-supervisor form of government and the at-large election, with staggered terms, of a

six-member county council. Under the council-supervisor form, the supervisor serves as chief administrative officer of the county and as chairman of the county council and is elected by the entire electorate of the county. Under South Carolina law, a majority vote is required for nomination of the supervisor and the members of the council.

We have examined this electoral system in view of circumstances in Colleton County that, under the legal principles by which we are guided, we must consider relevant. See Beer v. United States, 425 U.S. 130, 141 (1976); City of Richmond v. United States, 422 U.S. 358 (1975); White v. Regester, 412 U.S. 755 (1973); Allen v. State Board of Elections, 393 U.S. 544, 569 (1969); Kirksey v. Board of Commissioners of Hinds County, 554 F.2d 139 (5th Cir. 1977) (en banc), cert. denied, 46 U.S.L.W. 3357 (Nov. 18, 1977) (No. 77-499).

According to the information you have provided, information and comments from other interested persons, research conducted by our staff, and data contained in the 1970 census, the following circumstances in Colleton County appear to exist. The population of Colleton County is 27,707; blacks constitute 47 percent of this population. For the election of the board of commissioners and the board of school trustees the county is divided into two districts. Blacks constitute a majority in the eastern district. One black was elected to the board of school trustees in 1972 and reelected in 1976; a second black was elected to that board in 1974. Both were elected by the electorate of the eastern district. Residential patterns in the county are such that the creation of five fairly-drawn single-member districts satisfying applicable legal requirements could be expected to result in one or more districts having a black majority in population. An analysis of precinct election returns for elections in which there were black candidates supports an inference that white voters in the county are generally reluctant to vote for black candidates and an inference that had a majority vote been required for election to the board of education in 1972 the black candidate would not have been

elected. An analysis of precinct election returns for the November 2 and 16, 1976, referenda, supports an inference that blacks in the county generally favored the council-administrator form of government with the members of the council elected from single-member districts. Under this system, all members of the county council would have been elected from single-member districts, and the chief administrative officer of the county would have been responsible to the county council.

In these circumstances, we are unable to conclude that the form of government and method of election chosen for Colleton County will not have a discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the council-supervisor form of government and the at-large electoral system for Colleton County.

Under the Procedures for the Administration of Section 5 of the Voting Rights Act (42 C.F.R. 51.21(b) and (c), 51.23, and 51.24) you may request the Attorney General to reconsider this objection. In addition, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. However, until such time as the objection may be withdrawn or a favorable judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the council-supervisor form of government and the at-large electoral system for Colleton County legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division